IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4129 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEVDARSHAN CHARITABLE TRUST

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4129 of 2004

MR AJ SHASTRI for Petitioner No. 1

MR DIPEN DESAI, AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 15/10/2004

ORAL JUDGEMENT

Rule. Shri Dipen Desai, Learned AGP waives service of rule on behalf of the respondents. With the consent of the parties, the matter is taken up for final hearing today.

2. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order dated 16.2.2004 in refusing to grant NOC by the State Government for

establishing B.Ed. College. Shri Vyas, Learned Advocate appears for Shri A.J.Shastri, Learned Advocate for the petitioner has submitted that the order passed by the State Government dated 16.2.2004 in refusing to grant NOC for the purpose of establishing B.Ed. College is a non-speaking order and no reasons whatsoever are assigned for not granting NOC. From the bare reading of the order dated 16.2.2004, it is clear that while rejecting the application of the petitioner for NOC for establishing B.Ed. college, no reasons are assigned and therefore, this Court is not in a position to appreciate the said order and the reasons for not granting of NOC. As held by the Honourable Supreme Court of India in the case of Notified Area Committee Vs. Additional Director, Consolidation & Others reported in (2002) 10 SCC 87, when the order is subject to challenge before the higher forum and/or higher court, the reasons are required to be given so that the higher authority/higher forum can know what was passing in the mind of the authority while refusing to grant NOC. In view of the above facts and circumstances of the case and in view of the circumstance that while refusing to grant the reasons are not assigned only on that ground, the present petition is required to be allowed and the impugned order dated 16.2.2004 is required to be quashed and set aside. Accordingly, the impugned order dated 16.2.2004 is hereby quashed and set aside. The State Government is directed to consider the application submitted by the petitioner for NOC for establishing BEd. College in accordance with law and on merits and to pass an appropriate speaking order after hearing the petitioner. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.Shah, J)
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